

Notice of Allowability

Application No.

10/040,936

Examiner

Julian W. Woo

Applicant(s)

CHEROK ET AL.

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendmant of 3/22/04.
2. ☒ The allowed claim(s) is/are 11,12,15-19 and 21-74.
3. ☒ The drawings filed on 21 January 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 3/22/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

REASONS FOR ALLOWANCE

1. The following is an examiner's statement of reasons for allowance: None of the prior art of record, alone or in combination, an implantable prosthesis for a tissue or muscle defect having, inter alia, at least one layer of mesh or a material with at least a portion of which permits formation of adhesions with tissue or muscle, a peripheral edge, and a pocket formed in the layer; a first reinforcing member coupled to the layer and supporting an outer area of the layer, and a second reinforcing member coupled to the layer and inwardly spaced from the first reinforcing member. The prior art of record also does not disclose, inter alia, that the implantable prosthesis has a first pocket formed in an inner area of the layer and a separate, second pocket formed in an outer area of the layer. The prior art of record does not that the implantable prosthesis has a barrier layer attached to at least a second layer of mesh material attached to a first layer of mesh material, at least one pocket defined by the attachment of the first and second layers of material, and a reinforcing member coupled to one of the layers and arranged to reinforce at least an outer area of the layer. None of the prior art of record, alone or in combination, discloses an implantable prosthesis for attachment to tissue or muscle, where the prosthesis has, inter alia, first and second layers of material permitting formation of adhesions, at least one pocket formed between the first and second layers, a layer of barrier material of ePTFE that is resistant to the formation of adhesion with tissue or muscle and covers an entire surface of the second layer, a peripheral edge, and an outer area disposed inwardly of the peripheral edge, where first reinforcing

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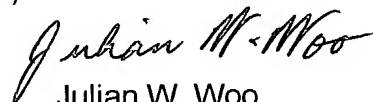
member substantially surrounds and reinforces the outer area, and where a separate, second pocket is formed in the outer area.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julian W. Woo whose telephone number is 703-308-0421. The examiner can normally be reached on M-F, 6:30-4:00, Alt. Fridays Off.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Julian W. Woo
Primary Examiner
Art Unit 3731